IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4426 OF 2004

Smt. Swati Kailas Dhole ... Applicant

versus

State of Maharashtra ... Respondent

...

Mr. P.G. Karande, for the Applicant.

Mr. S.R. Shinde, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

19th October 2004

P.C.:

. Heard Counsel for the parties. Perused the record. The Applicant apprehends arrest in connection with Cr. No. 69/2004 registered with Junnar Police Station, District Pune, for offences punishable under sections 147, 148, 323, 504, 506, I.P.C. and section 3(1)(x) of the Prevention of Atrocities Act. The accusation against the Applicant is that the Applicant addressed the Chairman of the Zilla Parishad as "Adivasi Kolpata", which is a derogatory term

attracting provisions of the Prevention of Atrocities Act. The Court below has rejected the prayer for anticipatory bail insofar as this Applicant is concerned on the reasoning that offence under the Act has been disclosed as against this Applicant and in view of bar under section 18 of the Act, his anticipatory bail application cannot be considered. To get over this reasoning, Counsel for the Applicant has pressed into service the decision of our High Court in Ramchandra Govindrao Watkar and another v. State of Maharashtra, reported in 1995(2) Mh.L.J. 669. According to the learned Counsel, the Applicant has been falsely implicated and the utterances attributed to him are false and the said complaint has been registered only as counter-blast to the complaint lodged by the Applicant against the Chairman of the Zilla Parishad. Whether the complaint as registered against the Applicant is out of political rivalry or otherwise is a matter to be considered at a later stage. For the present, the only question is whether the complaint as filed discloses offence in terms of the provisions of the Prevention of Atrocities Act. The complaint as filed mentions the offending utterances of the

Applicant addressed to the Chairman of the Zilla Parishad. The learned Counsel for the Applicant, however, submits that the said utterances by themselves do not amount to intentional insulting of the Chairman of the Zilla Parishad and there is no material to establish the position that it was intentional insulting of the Chairman of the Zilla Parishad on the basis of his caste. This submission clearly overlooks the position stated by this Court in the decision, which is relied upon by the Applicant before this Court in the case of Ramchandra (supra). In that case, insofar as applicant No. 2 was concerned, it was alleged that he had abused the complainant by saying "Mahardya". Similar argument was canvassed in the said case on behalf of Applicant No. 2 that there is no material that the said utterance amounted to intentional insulting of the complainant and, as such, no offence under the provisions of the Prevention of Atrocities Act was made out. While dealing with the said submissions, the Court has rejected the contention as can be discerned from the discussion in para 11 of the reported decision that the allegations made in the first information report will have to be taken as it is

and the material supporting the said allegation was reflected from the record, which discloses commission of offence under the Prevention of Atrocities Act. In the present case also, the FIR discloses the offence and the prosecution has relied upon similar materials. Hence, no case for interference. Rejected. However, it is made clear that the observations in this decision are only for the limited purpose of considering prayer for anticipatory bail and will not influence while deciding the bail application, if filed.

(A.M.KHANWILKAR,J.)